

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JOHN JONES,

Plaintiff,

v.

GENERAL NUTRITION CENTERS,
INC.,

Defendant.

Civil Action No _____

NOTICE OF REMOVAL

Defendant General Nutrition Centers, Inc. (“Defendant”), by and through its attorneys, McGuireWoods LLP, hereby notices the removal of the above-captioned action from the Court of Common Pleas of Lackawanna County, Pennsylvania to the United States District Court for the Middle District of Pennsylvania on the following basis:

1. Plaintiff John Jones (“Plaintiff”) commenced a civil action against Defendant in the Court of Common Pleas of Lackawanna County, Pennsylvania with the filing of the Complaint on June 23, 2006, which action was docketed at No. 06-

cv-2988. The Complaint contains three counts against Defendant: (Count I) Sexual Harassment, Discrimination & Retaliation under the PHRA; (Count II) Sexual Harassment, Discrimination & Retaliation Under Title VII; (Count III) Sexual Harassment, Discrimination & Retaliation Under 42 U.S.C. § 1981. A true and correct copy of Plaintiff's Complaint is attached hereto as Exhibit "A."

2. Defendant is filing this Notice of Removal within thirty (30) days of service of Plaintiff's complaint, in accordance with 28 U.S.C. § 1446(b). Therefore, this action is timely removed under 28 U.S.C. § 1446.

3. The removal statute, 28 U.S.C. § 1441, provides several bases for the removal of a state court action to federal court. Among other things, Section 1441(b) provides that "any civil action of which the district courts have original jurisdiction founded on a claim or right arising under the constitution, treaties or laws of the United States shall be removable without regard to the citizenship or residence of the parties."

4. 28 U.S.C. § 1331 states that "[t]he district courts shall have original jurisdiction over all civil actions arising under the Constitution, laws, or treaties of the United States." Id.

5. Count II of Plaintiff's Complaint pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000(e) arises under the laws of the United States.

Therefore, this action is removable on the basis of federal question jurisdiction under 28 U.S.C. § 1331.

6. Count III of Plaintiff's Complaint pursuant to 42 U.S.C. § 1981 arises under the laws of the United States. Therefore, this action is removable on the basis of federal question jurisdiction under 28 U.S.C. § 1331.

7. Although Count I of Plaintiff's complaint arises under state law, this claim is within the supplemental jurisdiction of this Court in accordance with 28 U.S.C. § 1367.

8. The above-referenced state court action is pending within the Scranton division of this Court's district. Therefore, venue in this action is properly laid with this Court upon removal pursuant to 28 U.S.C. §§ 1441(a) and 1446(a).

9. For the reasons stated above, Defendant submits that the controversy in this action arises under a federal statute as required to confer original jurisdiction upon the district courts of the United States under 28 U.S.C. § 1331.

10. Defendant shall promptly give written notice of their removal of this action to counsel for Plaintiff, and shall also file a copy of this Notice of Removal with the Prothonotary of the Court of Common Pleas of Lackawanna County, Pennsylvania, as required by 28 U.S.C. § 1446(d).

WHEREFORE, Defendant General Nutrition Centers, Inc., respectfully requests that the above-captioned action now pending in the Court of Common

Pleas of Lackawanna County, Pennsylvania, be removed to the United States District Court for the Middle District of Pennsylvania, and that said district court assume jurisdiction of the action and enter such other and further orders as may be necessary to accomplish the requested removal and promote the ends of justice.

Respectfully submitted,

/s/ Ronald W. Crouch

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Dated: July 20, 2006

Attorneys for Defendant
General Nutrition Centers, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice of Filing of Notice of Removal was served this 20th day of July 2006 via United States first-class mail, postage prepaid, upon the following:

Mary D. Walsh-Dempsey, Esquire
The Employment Discrimination Center
O'Mally & Langan, P.C.
426 Mulberry Street
Scranton, PA 18503

/s/ Ronald W. Crouch